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EXAMINER

DEL SOLE, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/009,133

Applicant(s)

DUBUS ET AL.

Examiner

Joseph S. Del Sole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004 and 26 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 9-15 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The amendment filed 1/23/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: a) at original page 9, line 20 "by adjustment device 10a", however a physical structure so defined was not present in the original disclosure and is therefore new matter; therefore the new drawing is also new matter. A correction of Figure 3 to remove this new matter would result in a return to the previous drawing objection and thus Figure 3 as corrected would need to be labeled "Prior Art".

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 9, 11-13 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Balk (4,820,142).

Balk teaches an installation having an extruder feeding to a spinneret (Fig 1, #3), cooling means including a cooling zone (Fig 1, #12 and #13); a filament-drawing assembly (Fig 1, #5) including a suction device comprising a narrow chamber of rectangular cross section; the chamber has an adjustable width and extending to a chamber outlet (Fig 1, #16 and col 3, lines 30-45); distributing means (Fig 1, #6) for distributing over a receiving belt; the extruding means, cooling means, filament-drawing assembly and distributing means are separately controllable (the extruding means extrudes independently of the cooling, drawing and distributing structures: col 3, lines 1-20; the cooling means is adjustable: col 3, lines 15-25; the filament-drawing assembly and the distributing means have pivotal flaps: col 2, lines 10-35, col 3, lines 25-60); the cooling zone has an assembly having a plurality of successive zones (Fig 1, # 12 and #13) for transverse air current (the limitation "the speed and temperature of which may be adjusted independently in each of the zones" is a process limitation and does not further limit the structure of the apparatus as claimed, however Balk does anticipate temperature control: col 3, lines 10-25); the suction device has a suction slot (Fig 1, #16), the width of which may be adjusted automatically (col 3, lines 30-45); and the distributing means is spaced from the filament drawing assembly (Fig 1; while the two are contiguous, they are not over lapping and are therefore spaced) and has an assembly which laterally deflects the air flow (Fig 1, #18; also the limitation "reducing the speed thereof and that of the filaments, and facilitating the uniform deposition on the

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receiving belt by eliminating any rebound at the moment of this deposition" is a process limitation and does not further limit the structure of the apparatus as claimed, however Balk's apparatus is capable of this).

4. Claims 9-10, 12-13 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Geus et al (5,460,500).

Geus et al teach an installation having an extruder feeding to a spinneret (Fig 1, #2), cooling means including a cooling zone (Fig 1, #3); a filament-drawing assembly (Fig 1, #4) including a suction device comprising a narrow chamber of rectangular cross section; the chamber has an adjustable width and extending to a chamber outlet (Fig 1, #4 and col 4, lines 57-61); distributing means (Fig 1, #5) for distributing over a receiving belt; the extruding means, cooling means, filament-drawing assembly and distributing means are separately controllable (col 4, lines 25-65, Figs 1 and 5); the cooling means and the filament-drawing assembly each comprise a plurality of elementary modules placed side by side (Fig 3 and Fig 5); the suction device has a suction slot (Fig 1, #4), the width of which may be adjusted automatically (col 4, lines 57-61); and the distributing means is spaced from the filament drawing assembly (Fig 1) and has an assembly which laterally deflects the air flow (Fig 1 also the limitation "reducing the speed thereof and that of the filaments, and facilitating the uniform deposition on the receiving belt by eliminating any rebound at the moment of this deposition" is a process limitation and does not further limit the structure of the apparatus as claimed, however Balk's apparatus is capable of this).

5. Claims 9-13 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Najour et al (6,379,136).

Najour et al teach an installation having an extruder feeding to a spinneret (Fig 1, #2), cooling means including a cooling zone (Fig 1, #s 24a-c); a filament-drawing assembly (Fig 1, #s 27 and 51) including a suction device comprising a narrow chamber of rectangular cross section; the chamber has an adjustable width and extending to a chamber outlet (Fig 1, #8; also see arrows); distributing means (Fig 6, #s15 and 59) for distributing over a receiving belt; the extruding means, cooling means, filament-drawing assembly and distributing means are separately controllable (Figs 1 and 6, the arrows show control of the structures and col 10, lines 15-25 and col 10, lines 60-65); the cooling means and the filament-drawing assembly comprises a plurality of elementary modules placed side by side (Fig 1, #s 24a-c for the cooling means and Fig 1, #s 27, 51 and 56 for the filament drawing assembly), the distributing means extending along the entire width of the web produced (Fig 1); the cooling zone has an assembly having a plurality of successive zones (Fig 1, #s 24a-c) for transverse air current (the limitation "the speed and temperature of which may be adjusted independently in each of the zones" is a process limitation and does not further limit the structure of the apparatus as claimed, however Najour et al do anticipate temperature control: col 10, lines 60-55); the suction device has a suction slot (Fig 1, #8), the width of which may be adjusted automatically (Fig 1, see arrows); and the distributing means is spaced from the filament drawing assembly (Fig 1) and has an assembly which laterally deflects the air flow (Fig 1; also the limitation "reducing the speed thereof and that of the filaments, and

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facilitating the uniform deposition on the receiving belt by eliminating any rebound at the moment of this deposition" is a process limitation and does not further limit the structure of the apparatus as claimed, however Najour et al's apparatus is capable of this).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of Balk (4,820,142), Geus et al (5,460,500), Najour et al (6,379,136) in view of Trimble et al (5,397,413).

Balk, Geus et al and Najour et al teach the invention of claim 13 as discussed above.

Balk, Geus et al and Najour et al fail to teach the distributing means having an assembly which electrostatically charges filaments before deposition on the receiving belt.

Tremble et al teach a distributor incorporated with a corona device (Fig 2, #18) for the purpose of electrostatically charging filaments so that the filaments repel each other and spread apart as they strike the forming belt (col 7, lines18-56).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of any of Balk, Geus et al and Najour et al with an electrostatic charge inducing distributing means as taught by Trimble et al because it enables the filaments to repel each other for better distribution on a forming belt.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of Balk (4,820,142), Geus et al (5,460,500) and Najour et al (6,379,136) in view of Grabowski et al (4,692,106) and Tompkins et al (5,069,850).

Balk, Geus et al ('500) and Najour et al each teach the invention of claim 9 as discussed above.



Balk, Geus et al and Najour et al fail to teach computer means for controlling the extruder means, the cooling means, the filament-drawing assembly and the distributing means.

Grabowski et al teach computer control for cooling means and the walls of a filament drawing means and distributing means (Fig 1, #10) and Tompkins et al teach computer control for a extruder (col 9, line 65 - col 10, line 12) for the purpose of better control of the structures of an apparatus.

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified any of the inventions of Balk, Geus et al ('500) and Najour et al by including a computer or computers as taught by Grabowski et al and Tompkins et al because it enables well known increased control over the structures of an apparatus.

#### ***Allowable Subject Matter***

11. Claims 17-20 are allowed.
12. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest the invention of claims 17-19 for the reasons applied to now cancelled claim 16 as set forth in the Office action of 9/3/03.

#### ***Response to Arguments***

13. Applicant's arguments filed 1/23/04 have been fully considered but they are not persuasive.

The original objections to specification have been overcome.

The objection to the drawing has not been properly overcome because the change to the drawing has introduced new matter as discussed above with regard to the new objection to the specification.

The Applicant argues that the rejections of claim 9 over any of the prior art should be withdrawn because "claim 9 has been amended to include that the narrow chamber of the suction device has an adjustable width" and none of the prior art cited includes this.

The Examiner disagrees. This added limitation is essentially a limitation that was present in claim 12. The Examiner's rejection of 9/3/03 set forth that each of the primary references taught this limitation of claim 12 (now of claim 9). The Examiner contends that this limitation is still taught by these references as set forth above.

The Applicant has not addressed the difference between the features taught by the primary references and the feature of claim 9. More specifically, the Applicant has not discussed why he believes that claim 12 should not have been originally rejected by each of the primary references. The rejections are set forth above to more clearly show the structure of the prior art that corresponds to the added limitation of claim 9. The rejections are not overcome.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### **Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Joseph S Del Sole*

J.S.D.  
March 30, 2004

*[Signature]*  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1300-1700

*4/1/04*